

THE HONORABLE MONICA J. BENTON

FILED  
KING COUNTY, WASHINGTON

AUG 10 2009

SUPERIOR COURT CLERK  
BY DONNALEE PICKREL  
DEPUTY

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

In re EXPEDIA HOTEL TAXES AND FEES  
LITIGATION

CONSOLIDATED CIVIL ACTION

Master File No. 05-2-02060-1 SEA

This Document Relates To: ALL ACTIONS

~~PROPOSED~~ ORDER PRELIMINARILY  
APPROVING SETTLEMENT AND  
PROVIDING NOTICE OF SETTLEMENT

CLERK'S ACTION REQUIRED

WHEREAS, the class action captioned *In re Expedia Hotel Taxes and Fees Litigation*,  
No. 05-2-02060-1 SEA, is pending before this Court; and

WHEREAS, the Plaintiffs have applied to the Court, pursuant to CR 23(e), for an Order  
preliminarily approving the Settlement of the above-named action in accordance with the terms  
and provisions of the Class Action Settlement Agreement (the "Settlement Agreement" or  
"Agreement") which, together with the exhibits thereto, sets forth the terms and conditions for a  
proposed settlement of the action as to Defendant, Expedia and for dismissal of the action with  
prejudice as to Defendant, Expedia;

WHEREAS, by Order dated May 7, 2008, the Court previously appointed Plaintiffs as  
class representatives for the Class, and Hagens Berman Sobol Shapiro LLP as Lead Class  
Counsel, and certified the following class:

1 All persons and entities throughout the United States who were  
2 assessed a 'Tax Recovery Charge' and a 'Service Fee' when  
3 paying for lodging reservations through Expedia, Inc. (the  
4 "Class"), asserting the following claims: (1) for all Class members  
5 from January 1, 2003, to the present, claims for breach of contract  
6 ("the breach of contract claimants") and (2) for all Class members  
7 from January 10, 2001 to the present who paid for hotel  
8 reservations that were not part of a "package," except for those  
9 who paid for hotel reservations that were booked between  
10 December 20, 2002 and December 27, 2002, claims for violations  
11 of the Washington Consumer Protection Act (the "CPA  
12 claimants.") For the purpose of the Class, a "package" is a  
13 reservation that includes lodging plus airline tickets and/or a rental  
14 car. Excluded from the Class are Expedia, Inc. and its employees  
15 and agents, and all state and other governmental entities.

9 WHEREAS, the proposed Settlement maintains this definition, except that (i) the Class  
10 Period ends on June 11, 2008, consistent with the Court-approved class certification notice in the  
11 fall of 2008 and (ii) those persons who have already opted out of this litigation are not part of the  
12 Class.

13 WHEREAS, the Court has read and considered the Agreement and the exhibits thereto  
14 and has read and considered all other papers filed and proceedings had herein, and is otherwise  
15 fully informed in the premises, and with good cause appearing therefore;

16 NOW, THEREFORE, IT IS HEREBY ORDERED:

17 1. This Preliminary Approval Order incorporates by reference the definitions in the  
18 Agreement, and all capitalized terms shall have the same meanings set forth in the Agreement.

19 2. The Court has jurisdiction over the subject matter of this action and over all  
20 parties to this action, including all members of the Class and Defendant, Expedia.

21 3. The Court preliminarily approves the Agreement, including the Releases  
22 contained therein, and preliminarily finds the Settlement to be fair, reasonable, and adequate to  
23 the Class.

24 4. The Court approves, as to form and content, the Summary Published Notice, the  
25 Long Form Notice, and the Summary Email Notice (together, the "Class Notice") annexed to the  
26 Agreement.

1           5.       All dates that are set forth in or otherwise flow from the Preliminary Approval  
2 Order shall be added to the Summary Email Notice and the Summary Published Notice before  
3 they are emailed and published, respectively.

4           6.       The Court finds the Notice Plan constitutes the best notice practicable under the  
5 circumstances, by providing individual notice to all Class Members who can be identified  
6 through reasonable effort, and constitutes valid, due, and sufficient notice to all persons entitled  
7 thereto, complying fully with the requirements of CR 23 and due process.

8           7.       The notice procedure shall be as set forth below and in the Notice Plan:

9               (a)     Consistent with the Notice Plan, the Claims Administrator shall cause to  
10 be emailed copies of the Summary Email Notice to all Class Members who can be identified  
11 with reasonable effort to each such Class Member's last-known, customer-provided email  
12 address. For those Class Members for whom Expedia does not have a last-known, customer-  
13 provided email address, and for those Class Members for whom active email addresses cannot be  
14 obtained, the Claims Administrator shall cause to be mailed to the Class Member's last-known,  
15 customer-provided mailing address, by first class mail, postage prepaid, copies of a postcard  
16 Notice that contains substantially all of the information in the Summary Email Notice;

17               (b)     The Claims Administrator shall cause the Summary Published Notice to  
18 appear as a half-page in one issue of *People* magazine;

19               (c)     The Claims Administrator shall place internet Notice on major online  
20 networks and websites including *Yahoo.com*, *Mapquest.com*, *Univision.com*, and *Weather.com*,  
21 in the form of a banner that allows users to self-identify themselves as potential Class Members  
22 and then link directly to the Settlement Website;

23               (d)     The Claims Administrator shall establish and be responsible for  
24 administering the Settlement Website, which shall contain, among other things, the Long Form  
25 Notice, a contact information page that includes address and telephone numbers for the Claims  
26 Administrator and the Parties; the Settlement Agreement; the signed Preliminary Approval

1 Order; and an electronic version of the Cash Election Form, the Expedia Settlement Credit  
2 Verification Form, and a downloadable version of the Opt-Out Form.

3 8. At or prior to the Final Approval Hearing, the Claims Administrator shall file with  
4 the Court and serve on Plaintiffs' Counsel and Expedia's Counsel proof by declaration or  
5 affidavit that it has complied with the notice requirements described in paragraphs 7(a)-(c)  
6 above.

7 9. Class Members who wish to comment on, object to or exclude themselves from  
8 the Agreement must do so in accordance with the instructions contained in the Class Notice. All  
9 persons who properly submit requests for exclusion shall not be members of the Class and shall  
10 have no rights with respect to the settlement. The Claims Administrator will transmit, on a  
11 rolling basis, copies of completed Opt-Out Forms received from Class Members simultaneously  
12 to both the Plaintiffs' Counsel and Expedia's Counsel.

13 10. A hearing (the "Final Approval Hearing") shall be held on December 1,  
14 2009, at 10 a.m., before the Honorable Monica J. Benton, King County Superior Court  
15 Judge, at the Regional Justice Center, 401 Fourth Avenue North, Room <sup>3B</sup>~~3B~~, Kent, Washington  
16 98032, for the purpose of determining (a) whether the proposed Settlement as set forth in the  
17 Agreement is fair, reasonable and adequate and should be approved by the Court; (b) whether an  
18 Order of Final Approval of Class Action Settlement and Judgment of Dismissal with Prejudice,  
19 substantially in the form of Exhibit C to the Agreement, should be entered; (c) whether the  
20 proposed Plan of Allocation is fair, reasonable and adequate and should be approved by the  
21 Court; (d) whether Plaintiffs' counsel should receive an award of attorneys' fees and costs, and  
22 the amount of any such award; (e) whether the Named Plaintiffs (Michelle Huggins and Jose  
23 Alba) should receive incentive awards in an amount not to exceed \$7,500 each; and (f) such  
24 other matters as the Agreement contemplates and as the Court may deem just and proper.  
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1           11. Any application by Plaintiffs' Counsel for Attorneys' Fees and Costs, and all  
2 papers in support thereof, and any application for Incentive Awards for the Named Plaintiffs  
3 shall be filed with the Court at least ten (10) days prior to the Final Approval Hearing.

4           12. All other papers in support of the Settlement or responding to objections or  
5 motions to intervene shall be filed at least ten (10) days prior to the Final Approval Hearing.

6           13. At least 15 days prior to the Final Approval Hearing, the Claims Administrator  
7 shall prepare a list of Class Members who have filed timely requests for exclusion and provide  
8 that list simultaneously to Expedia's Counsel and Plaintiffs' Counsel, and Plaintiffs' Counsel  
9 shall file that list with the Court (and simultaneously serve on Expedia's Counsel a copy of the  
10 list as filed).

11           14. Any Class Member may appear and show cause (if he, she, or it has any) why the  
12 Court should or should not (a) approve the proposed Settlement as set forth in the Agreement as  
13 fair, reasonable and adequate; (b) approve the Plan of Allocation; (c) approve Plaintiffs'  
14 Counsel's request for attorneys' fees and reimbursement of expenses; (d) approve the request for  
15 Incentive Awards for the Named Plaintiffs; and (e) enter the Order of Final Approval of Class  
16 Action Settlement and Judgment of Dismissal with Prejudice, substantially in the form of Exhibit  
17 C to the Agreement; provided, however, that no person shall be heard with respect to, or shall  
18 be entitled to contest, the foregoing matters unless, no later than twenty (20) days prior to the  
19 Final Approval Hearing, that person has served by hand, express mail delivery service, or by  
20 first-class mail notice of his, her, or its intention to appear, setting forth briefly each objection  
21 and the basis therefore, together with copies of any papers and briefs in support of said  
22 objections and proof of membership in the Class, upon: Andrew M. Volk, Hagens Berman  
23 Sobol Shapiro LLP, 1301 Fifth Avenue, Suite 2900, Seattle, Washington 98101 (on behalf of  
24 Plaintiffs and the Class) and upon James Karen, Jones Day, 2727 N. Harwood Street, Dallas,  
25 Texas 75201 (on behalf of Expedia); and has filed said objection, papers, and briefs with the  
26 Court, upon: Clerk of the Court, King County Superior Court, Regional Justice Center, 401

1 Fourth Avenue North, Kent, Washington 98032. Unless otherwise ordered by the Court, any  
2 Class Member who does not make his, her, or its objection in the manner provided for herein,  
3 shall be deemed to have waived such objection and shall forever be foreclosed from making any  
4 objection to the foregoing matters.

5 15. The Court may adjourn the Final Approval Hearing from time to time and without  
6 further notice to the Class. The Court reserves the right to approve the Settlement at or after the  
7 Final Approval Hearing with such modifications as may be consented to by the Settling Parties  
8 and without further notice to the Class. The Court further reserves the right to enter a Final  
9 Order, dismissing the action with prejudice as to Expedia and against the Plaintiffs and the Class  
10 at or after the Final Approval Hearing and without further notice to the Class.

11 16. Upon the Effective Date, all Released Claims will be released in accordance with  
12 Section 7 of the Agreement.

13 17. Upon entry of the Final Order, the Court will dismiss this action in its entirety as  
14 to Defendant, Expedia, with prejudice and without costs (except as otherwise provided in the  
15 Agreement).

16 18. All reasonable costs and expenses incurred in identifying and providing notice to  
17 Class Members and in administering the Settlement shall be paid as set forth in the Agreement.

18 19. The Court retains jurisdiction over all proceedings arising out of or related to the  
19 Settlement Agreement.

20 20. If for any reason the Settlement Agreement does not become effective in  
21 accordance with the terms of the Settlement Agreement, this Preliminary Approval Order shall  
22 be rendered null and void and shall be vacated *nunc pro tunc*, and the Action will for all  
23 purposes revert to its status as of the close of business (Pacific Time) on July 2, 2009.

24 21. Pending final determination as to whether the Settlement, as set forth in the  
25 Settlement Agreement, should be approved, no Class Member shall commence, prosecute,  
26 pursue, or litigate any Released Claims against Expedia, whether directly, representatively, or in

1 any other capacity, and regardless of whether or not any such Class member has appeared in the  
2 action.

3 IT IS SO ORDERED.

4 Dated this 10 day of August, 2009.

5   
6 MONICA J. BENTON  
7 King County Superior Court Judge

8 Presented by:

9 **Hagens Berman Sobol Shapiro LLP**

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